

LICENSING COMMITTEE AGENDA

Wednesday, 09 September 2020 at 7:15pm

In accordance with the Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority and Police and Crime Panel Meetings) (England and Wales) Regulations 2020, this meeting will be held via Zoom and by the Council's YouTube channel – Braintree District Council Committees.

Members of the public will be able to view and listen to this meeting via YouTube.

To access the meeting please use the link below:

<http://www.braintree.gov.uk/youtube>

Members of the Licensing Committee are requested to attend this meeting to transact the business set out in the Agenda.

Membership:-

Councillor J Baugh (Chairman)	Councillor B Rose (Vice Chairman)
Councillor Mrs J Beavis	Councillor Mrs J Sandum
Councillor P Euesden	Councillor P Schwier
Councillor A Hensman	Councillor Mrs L Walters
Councillor H Johnson	Councillor Mrs S Wilson
Councillor Mrs J Pell	Councillor B Wright
Councillor S Rehman	Vacancy

Members unable to attend the meeting are requested to forward their apologies for absence to the Governance and Members Team on 01376 552525 or email governance@braintree.gov.uk by 3pm on the day of the meeting.

A WRIGHT
Chief Executive

INFORMATION FOR MEMBER – DECLARATIONS OF MEMBERS' INTERESTS

Declaration of Disclosable Pecuniary Interests (DPI), Other Pecuniary Interests (OPI) or Non-Pecuniary Interests (NPI).

Any Member with a DPI, OPI or NPI must declare the nature of their interest in accordance with the Code of Conduct. Members must not participate in any discussion of the matter in which they have declared a DPI or OPI or participate in any vote, or further vote, taken on the matter at the meeting. In addition, the Member must withdraw from the Chamber where the meeting considering the business is being held unless the Member has received a dispensation from the Monitoring Officer.

Public Question Time – Registration and Speaking:

In response to the Coronavirus the Council has implemented procedures for Public Question Time for its virtual meetings which are hosted via Zoom.

The Agenda allows for a period of up to 30 minutes for Public Question Time.

Participation will be via the submission of a written question or statement which will be read out by an Officer or the Registered Speaker during the meeting. All written questions or statements should be concise and should be able to be read **within 3 minutes** allotted for each question/statement.

Members of the public wishing to participate are requested to register by contacting the Governance and Members Team on 01376 552525 or email governance@braintree.gov.uk by midday on the working day before the day of the Committee meeting. For example, if the Committee meeting is due to be held on a Tuesday, the registration deadline is midday on Monday, (where there is a bank holiday Monday you will need to register by midday on the previous Friday).

The Council reserves the right to decline any requests to register for Public Question Time if they are received after the registration deadline.

Upon registration members of the public may indicate whether they wish to read their question/statement or to request an Officer to read their question/statement on their behalf during the virtual meeting. Members of the public who wish to read their question/statement will be provided with a link to attend the meeting to participate at the appropriate part of the Agenda.

All registered speakers are required to submit their written questions/statements to the Council by no later than 9am on the day of the meeting by emailing them to governance@braintree.gov.uk. In the event that a registered speaker is unable to connect to the virtual meeting their question/statement will be read by an Officer.

Questions/statements received by the Council will be published on the Council's website. The Council reserves the right to remove any defamatory comment in the submitted questions/statements.

The Chairman of the Committee has discretion to extend the time allocated for public question time and to amend the order in which questions/statements are presented to the Committee.

Documents: Agendas, Reports, Minutes and Public Question Time questions and statements can be accessed via www.braintree.gov.uk

Data Processing: During the meeting the Council will be collecting performance data of participants' connectivity to the meeting. This will be used for reviewing the functionality of Ms Teams/Zoom and YouTube as the Council's platform for virtual meetings and for monitoring compliance with the legal framework for Council meetings. Anonymised performance data may be shared with third parties.

For further information on how the Council processes data, please see the Council's Privacy Policy. https://www.braintree.gov.uk/info/200136/access_to_information/376/privacy_policy

We welcome comments to make our services as efficient and effective as possible. If you have any suggestions regarding the meeting you have attended, you can send these to governance@braintree.gov.uk

PUBLIC SESSION

Page

- 1 Apologies for Absence**
- 2 Declarations of Interest**
To declare the existence and nature of any Disclosable Pecuniary Interest, other Pecuniary Interest or Non-Pecuniary Interest relating to Items on the Agenda having regard to the Code of Conduct for Members and having taken appropriate advice where necessary before the meeting.
- 3 Minutes of the Previous Meeting**
To approve as a correct record the Minutes of the meeting of the Licensing Committee held on 14th August 2020 (copy previously circulated).
- 4 Public Question Time**
(See paragraph above)
- 5 Street Trading Consent Application - Crittall Road, Witham** **5 - 25**
- 6 Braintree District Council's Revised Statement of Licensing Policy** **26 - 56**
- 7 Conditionality Check on Tax Registration - Renewed Licence Applications** **57 - 60**
- 8 Licensing Committee Update** **61 - 63**
- 9 Urgent Business - Public Session**
To consider any matter which, in the opinion of the Chairman, should be considered in public by reason of special circumstances (to be specified) as a matter of urgency.
- 10 Exclusion of the Public and Press**
To agree the exclusion of the public and press for the consideration of any Items for the reasons set out in Part 1 of Schedule 12(A) of the Local Government Act 1972.

PRIVATE SESSION

Page

- 11 Urgent Business - Private Session**
To consider any matter which, in the opinion of the Chairman, should be considered in private by reason of special circumstances (to be specified) as a matter of urgency.

APPLICATION FOR STREET TRADING CONSENT - CRITTALL ROAD, WITHAM, CM8 3DR		Agenda No: 5
Portfolio	Environment and Place	
Corporate Outcome:	A sustainable environment and a great place to live, work and play A high performing organisation that delivers excellent and value for money services Delivering better outcomes for residents and businesses and reducing costs to taxpayers	
Report presented by:	John Meddings, Principal Licensing Officer	
Report prepared by:	John Meddings, Principal Licensing Officer	
Background Papers:		Public Report
<ol style="list-style-type: none"> 1. Application for Street Trading Consent made by Mr Gary Parmenter (Appendix 1) 2. Representation received during the consultation period – Essex County Council (Highways) - (Appendix 2) 3. Additional site photographs (Appendix 3) 4. Braintree District Council Street Trading and Collections Policy 		Key Decision: No
Executive Summary:		
<p>To consider an application by Mr Gary Parmenter for a Street Trading Consent at Crittall Road, Witham, Essex, CM8 3DR. The Council's Street Trading and Collections Policy specifies that if representations are received, the application is required to be determined by the Licensing Committee.</p>		
Recommended Decisions: To determine one of the following options:-		
<ol style="list-style-type: none"> 1. To GRANT the application for Street Trading Consent. 2. To GRANT the application for Street Trading Consent with amendments. 3. To GRANT the application for Street Trading Consent with additional conditions. 5. To REFUSE the application for Street Trading Consent. 		

Purpose of Decision:	
Members of the Licensing Committee are requested to consider an application made by Mr Gary Parmenter for a Street Trading Consent at Crittall Road, Witham, Essex, CM8 3DR.	
Any Corporate implications in relation to the following should be explained in detail.	
Financial:	If the application is unsuccessful the fee will be returned to the applicant.
Legal:	There is no right of appeal against a refusal to issue Street Trading consent; therefore any applicant that is aggrieved by the council's decision has an option to seek a Judicial Review. Street Trading is controlled under the provisions contained in Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982
Safeguarding:	No matters arising from this report.
Equalities/Diversity:	No matters arising from this report.
Customer Impact:	The decision made could have an impact on the applicants business and that of surrounding businesses.
Environment and Climate Change:	No matters arising from this report
Consultation/Community Engagement:	Application subject to a consultation period under Braintree District Council's Street Trading Policy.
Risks:	No matters arising from this report
Officer Contact:	John Meddings
Designation:	Principal Licensing Officer
Ext. No:	2213
E-mail:	john.meddings@braintree.gov.uk

1. Application

1.1 The Licensing Authority received an application for Street Trading Consent from Mr Gary Parmenter on 23rd July 2020 which was validated the following day (Appendix 1).

1.2 In accordance with the Council's Street Trading Policy the Licensing Department consulted with the following:

Essex Police,
Essex County Council Highways and Highways Agency
Local Ward Members
Parish/Town Council
Braintree District Council – Planning Department
Braintree District Council – Environmental Health
Relevant local traders selling similar commodities within 500m radius of the proposed site

1.3 The hours the application is proposing to trade are set out below:

Monday to Saturday 06:00 – 15:00

1.4 The application proposes to sell hot and cold food and drinks for takeaway.

2. Background

2.1 A street trading consent has been in place for this site since 2005. There may have been a street trading consent in place before 2005 but digital records held by the Council only go back to this date.

2.2 Mr Parmenter has been the registered holder of the consent since September 2015.

2.3. Records indicate that there are no complaints recorded against this site or applicant.

3. Representation

3.1 During the consultation period the application received a representation from Essex County Council (Highways) (Appendix 2).

3.2 The representation raises the following points for consideration:

- That nothing should be parked opposite a junction. The verges on this estate have continually been churned up and having a vehicle selling food which may encourage other vehicles to park opposite a junction may cause restricted manoeuvres.
- All vehicles especially HGV's need to be able to make the turning movement without overrunning the verges, and as this is a two-way section of carriageway there should be enough room for 2 vehicles to manoeuvre and

turn and if the food van being at this location stops this, then they will need to reconsider where they park.

- Double yellow lines apply to vehicles/trailers in front of them and behind them, up to the highway boundary.

3.3 Essex County Council (Highways) have recommended the following actions which will alleviate their concerns:

- The trailer must be bought and taken away each day when on the public highway.
- The trailer must be placed in the carriageway and not placed on the footway which is not constructed to take either the trailer or vehicle pulling the trailer.
- The trailer must face inwards so the opening hatch is facing towards the footway.

4. Policy

4.1 Street Trading is controlled under the provisions contained in Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982.

4.2 The Council adopted this schedule on 15th March 1984. As a result, all streets within Braintree District are designated as Consent Streets. This means that anyone who wishes to trade on a street, highway or other area to which the public have access without payment must hold a Street Trading Consent.

4.3 There are additional requirements where a trader is conducting their business from private land. In such cases, the applicant must make enquiries with regard to planning permission and to seek the landowner's permission to trade.

4.4 The Braintree District Council Street Trading Policy states:

Each application for grant or renewal of street trading consent will be considered on its merits.

For every such application, or renewal, Braintree District Council may impose such conditions as may be reasonable, having regard to all the circumstances to prevent:-

- (a) Obstruction of the street or danger to persons using it; or
- (b) Nuisance or annoyance (whether to persons using the street or otherwise).

Standard conditions will be imposed unless circumstances dictate otherwise.

Where the imposition of conditions is not adequate to control potential problems, applications will be refused. Refusal or withdrawal of street trading consents will be normal in the following circumstances:-

- (a) Where the granting of the application is likely to give rise to nuisances or loss of amenity caused by noise, mal-odour, litter, disturbance or anti-social behaviour.
- (b) In respect of applications for hot, mal-odorous food where granting the application is likely to give rise to mal-odour, litter, disturbance or anti-social behaviour.
- (c) Where there is not enough space in the street for the applicant to engage in the trading in which he/she desires without causing undue interference or inconvenience to persons using the street.
- (d) Where granting of a consent for the sale of goods or services would conflict with those provided by nearby shops.
- (e) Where the applicant is unsuitable to hold a consent by reason of having been convicted of an offence, or for any other reason.
- (f) Where the applicant has at any time been granted a Street Trading Consent by the Council, and has persistently refused or neglected to pay fees due to them for it or charges due to them for services rendered.
- (g) Where applicant or operator of the stall is under the age of 17 years.
- (h) Where a trader has failed to comply with the conditions attached to the Consent.
- (i) Where street trading in a particular location will conflict with concessions granted to traders.
- (j) Where the street trading may damage the structure or surface of the street.
- (k) Where the appearance of the trading equipment or structure in use is not compatible with the character of the area in which it is proposed to be situated.
- (l) Where the quality of stall and the impact of its activities may be detrimental to the character and appearance of the area in which it is proposed to trade.

5. **Decision**

- 5.1 Following the determination of an application by the Committee, the applicant and any objectors will be notified of the decision at the end of the hearing. The Licensing Team will then send a confirmation in writing, as soon as possible after the decision, or in any case within seven days of the meeting.
- 5.2 There is **no right of appeal against a refusal** to issue consent; therefore any applicant that is aggrieved by the council's decision has an option to seek a Judicial Review. Where an application is refused, **payment of the application fee shall be refunded**.

Please return to LICENSING,
Braintree District Council,
Causeway House, Bocking End,
Braintree, Essex CM7 9HB



BRAINTREE DISTRICT COUNCIL

**Application for the Grant or Renewal of a
Street Trading Consent**

Local Government (Miscellaneous Provisions) Act, 1982 Section 3, Schedule 4)

NOTE: Before completing this form applicants are requested to read the Braintree District Council Street Trading Policy, which accompanies this application form

You are requested to complete this form in block capitals

1. I, GARY PARMENTER
of [REDACTED]
[REDACTED] ESSEX

Date of Birth:- [REDACTED]

Daytime telephone number:- [REDACTED]

e-mail:- [REDACTED]

hereby apply for a street trading consent to trade in the following streets:-
(Please specify streets and areas in which you wish to trade)

CRITTALL ROAD, WITHAM

.....
.....
.....

**PLEASE ENSURE YOU DO NOT INCLUDE ANY REQUEST FOR MARKET DAY
TRADING (See Braintree District Council Street Trading Policy – Item 9)**

2. I wish to trade on the following days between the hours specified.
(Please see Note – See Braintree District Council Street Trading Policy – Item 8)
- Monday: From 6am To 3pm Friday: From 6am To 3pm
 Tuesday: From 6am To 3pm Saturday: From 6am To 3pm
 Wednesday: From 6am To 3pm Sunday: From To
 Thursday: From 6am To 3pm
3. If you wish to trade for a short period, please specify what period below. (i.e Month of January). You will pay the day's trading fee per day you wish to trade.
-
4. I proposed to trade in the following items:-
 HOT & COLD TAKEAWAY FOOD
5. The registration number of the vehicle from which I propose to trade is:-
 [REDACTED]
 A photograph or fully drawn details of the proposed stall/vehicle, giving dimensions, must be submitted with new applications or if the stall/vehicle has changed.
6. Trading Name: Miss Triumph Pit stop / GAP mobile
7. I am registered as a food business with (Name of Local Authority)
 B. D. C.
8. Date of last Food Hygiene Inspection and Food Hygiene Rating:-
 14/8/19 (5)

Special Events

At special events, we will issue one consent to the person organising the event, rather than to each individual trader. We will issue a single consent, which will cover a number of traders. Traders wishing to sell hot or cold food are not covered by a consent issued for a special event. Each trader wishing to sell food is required to apply for an individual consent

NOTE :* If the event is being held on behalf of raising funds for a charity etc the fee will be waived.

Please identify the number of traders to be covered:

Category 1 – Up to 10 traders

Category 2 – Between 11 and 19 traders

Category 3 – Over 20 traders

<input checked="checked" type="checkbox"/>
<input type="checkbox"/>
<input type="checkbox"/>

A photograph or fully drawn details of the proposed stalls/vehicles, giving dimensions, must be submitted with applications.

9. I enclose a payment of:-

For 1 day's trading per week per annum	111.00
For 2 day's trading per week per annum	194.00
For 3 day's trading per week per annum	265.00
For 4 day's trading per week per annum	332.00
For 5 day's trading per week per annum	441.00
For 6 day's trading per week per annum	498.00
For 7 day's trading per week per annum	553.00

One day's trading 23.00 per day

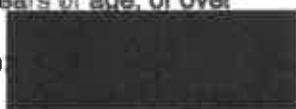
Special Events

Category 1 – Up to 10 traders	44.00
Category 2 – Between 11 and 19 traders	60.00
Category 3 – Over 20 traders	77.00

(Cheques should be made payable to "Braintree District Council")

10. I am 17 years of age, or over

Signature



Date: 20.7.20

IMPORTANT If you intend to be a 'static trader', to assist in the consideration of your application, you are asked to provide a small sketch of the area from which you wish to trade and the proposed position of the vehicle. Please specify one or two roads and landmarks to help with identifying your proposal.

However, if you apply to renew the consent you currently hold and that application is for precisely the same site, a sketch will not be required.

The Information given here may be used in conjunction with other Local Authorities for the prevention and detection of fraud and is held on computer, which is subject to the Data protection Act 1998.



Dimensions

14 ft length < 6ft width ^



From: Olive Porter [<mailto:Olive.Porter@essexhighways.org>]

Sent: 24 July 2020 3:36 PM

To: Licensing <licensing@braintree.gov.uk>

Subject: RE: Street Trading Consent Application 20/00637/STR - Mr G Parmenter, Trading Site - Crittall Road, Witham CM8 3DR

Good afternoon

An street plan showing the exact location is required.

Whilst I do not have a problem with this application, I would state that nothing should be parked opposite a junction, therefore consideration to the exact location might need to be given. The verges on this estate have continually been churned up and having a vehicle selling food which may encourage other vehicles to park opposite a junction may cause restricted manoeuvres.

All vehicles especially HGV's need to be able to make the turning movement without overrunning the verges, and as this is a two way section of carriageway there should be enough room for 2 vehicles to manoeuvre and turn and if the food van being at this location stops this, then they will need to reconsider where they park.

Regards

**Olive Porter CIHT, IHE | Network Assurance Officer
Essex Highways**

Seax House 2nd Floor Annexe , Victoria Road South, Chelmsford, CM1 1QH

T: 01245 342895

E: Olive.Porter@essexhighways.org

W: www.essex.gov.uk/highways

From: Olive Porter [<mailto:Olive.Porter@essexhighways.org>]

Sent: 27 July 2020 11:52 AM

To: Licensing <licensing@braintree.gov.uk>

Subject: RE: Street Trading Consent Application 20/00637/STR - Mr G Parmenter, Trading Site - Crittall Road, Witham CM8 3DR

Good morning

Sorry, the other problem is that the double yellow lines apply to vehicles/trailers in front of them and behind them, up to the highway boundary

Regards

**Olive Porter CIHT, IHE | Network Assurance Officer
Essex Highways**

Seax House 2nd Floor Annexe , Victoria Road South, Chelmsford, CM1 1QH

T: 01245 342895

E: Olive.Porter@essexhighways.org
W: www.essex.gov.uk/highways

From: Olive Porter [<mailto:Olive.Porter@essexhighways.org>]
Sent: 27 July 2020 11:49 AM
To: Licensing <licensing@braintree.gov.uk>
Subject: RE: Street Trading Consent Application 20/00637/STR - Mr G Parmenter, Trading Site - Crittall Road, Witham CM8 3DR

Good morning

Consent for this application is denied.

- The trailer must be bought and taken away each day when on public highway
- The trailer must be placed in the carriageway and not placed on the footway which is not constructed to take either the trailer or vehicle pulling the trailer
- The trailer must face inwards so the opening hatch is facing towards the footway

Regards

Olive Porter CIHT, IHE | Network Assurance Officer
Essex Highways
Seax House 2nd Floor Annexe , Victoria Road South, Chelmsford, CM1 1QH

T: 01245 342895
E: Olive.Porter@essexhighways.org
W: www.essex.gov.uk/highways

From: Gary Parmenter
Date: 27 July 2020 at 08:42:56 BST
To: Wendy Baxter <wendy.baxter@braintree.gov.uk>
Subject: Re: License renewal

Please find below pictures for the van renewal located at Crittall road Witham, which is a no through road. There is double yellow lines directly in front on the junction and on the corners. There is parking either side of the double yellow lines and additional parking spaces around the area.















BRAINTREE DISTRICT COUNCIL'S REVISED STATEMENT OF LICENSING POLICY IN RESPECT OF THE LICENSING ACT 2003		Agenda No: 6
Portfolio	Environment and Place	
Corporate Outcome:	A sustainable environment and a great place to live, work and play A high performing organisation that delivers excellent and value for money services Delivering better outcomes for residents and businesses and reducing costs to taxpayers	
Report presented by:	John Meddings, Principal Licensing Officer	
Report prepared by:	John Meddings, Principal Licensing Officer	
Background Papers:		Public Report
<ol style="list-style-type: none"> 1. Braintree District Council Draft Licensing Act 2003 Statement of Licensing Act Policy (Appendix 1) 2. Consultation Responses (Appendix 2) 3. Report and minutes of the Licensing Committee 26.02.2020 (pre-consultation) 4. Licensing Act 2003 5. Guidance issued under S.182 of the Licensing Act 2003 		Key Decision: No
Executive Summary:		
<p>To consider the revised Braintree District Council Statement of Licensing Act 2003 Statement of Licensing Act Policy for recommendation to Full Council on the 5th October 2020. Each Authority is legally required to formulate its Licensing Act Policy Statement, which must be reviewed and re-published every five years. The current Braintree District Council Licensing Act Policy Statement came into effect on the 7 January 2016.</p>		
Recommended Decisions:		
<p>The Braintree District Council Statement of Licensing Policy 2021 be recommended to Full Council.</p>		
Purpose of Decision:		
<p>To approve the revised Braintree District Council Statement of Licensing Act 2003 Statement of Licensing Act Policy 2021. This will allow Braintree District Council to meet the timescales set by the Licensing Act 2003.</p>		

Any Corporate implications in relation to the following should be explained in detail.	
Financial:	The principal behind modifying the policy is to minimise any risk of a judicial review.
Legal:	Failure to adopt a policy in line with the Licensing Act 2003 will result in the Council not being able to administer the licensing functions under the Licensing Act 2003.
Safeguarding:	No matters arising from this report.
Equalities/Diversity:	<p>Section 149 of The Equality Act 2010 places a duty on local authorities, to have due regard to the need to eliminate unlawful discrimination, advance equality of opportunity between people who share a protected characteristic and those who don't and foster or encourage good relations between people who share a protected characteristic and those who don't).</p> <p>An Equality Impact Assessment has been completed. The responses to the consultation process may result in issues which will need to be considered.</p>
Customer Impact:	None arising out of this report. The responses to the consultation process may result in issues which will need to be considered.
Environment and Climate Change:	No matters arising from this report
Consultation/Community Engagement:	<p>Consultation has taken place in writing with all identified stakeholders.</p> <p>The draft policy has been in place on the Authority's website for comment for the duration of the consultation period.</p>
Risks:	None arising out of this report.
Officer Contact:	John Meddings
Designation:	Principal Licensing Officer
Ext. No:	2213
E-mail:	john.meddings@braintree.gov.uk

1. Background

- 1.1 Section 5 of the 2003 Act requires a licensing authority to prepare and publish a statement of its licensing policy at least every five years. Such a policy must be published before the authority carries out any function in respect of individual applications and notices made under the terms of the 2003 Act.
- 1.2 During the five years, the policy must be kept under review and the licensing authority may make any revisions to it as it considers appropriate, for instance in the light of feedback from the local community on whether the licensing objectives are being met. If the licensing authority determines and publishes its policy in this way, a new five-year period commences on the date it is published.
- 1.3 Guidance also states “Where revisions to the section 182 Guidance are made by the Secretary of State, it will be for the licensing authority to determine whether revisions to its licensing policy statement are appropriate”.
- 1.4 The Council last reviewed the Licensing Act 2003 “Statement of Licensing Act Policy” in 2015, which took effect on 7th January 2016.
- 1.5 The re-published policy will set out the principles that the Licensing Authority will generally apply to promote the licensing objectives when making decisions on applications for licences made under the Act for the subsequent five years.
- 1.6 It is not proposed to introduce any new initiatives or special policies at this time. Should new policy initiatives or special policies be considered within the next policy period, the existing policy will be reviewed accordingly.

2. Consultation

- 2.1 A draft statement of Licensing Act 2003 policy, which is based upon the Essex Authorities generic framework, was available for public consultation following approval of the draft by this committee for a period of 12 weeks.
- 2.2 Letters advising of the consultation were sent to Responsible Authorities, Members and other persons who would have an interest in the Policy, including businesses who are currently holders of a premises licence. Due to the Covid-19 pandemic and the subsequent lockdown it was deemed appropriate that these consultation letters were also sent via email where possible.
- 2.3 The Policy was available for viewing via the Council's website.
- 2.4 The consultation received three responses; a Braintree District Councillor, a Premises Licence holder and Braintree District Council's Environmental Protection Manager during the 12 week period.

- 2.5 The low number of responses to the consultation is likely due to the lack of any major changes to the policy from the last review.

3. Responses to Consultation

- 3.1 *“public safety section there is no specific mention of adherence to Local Authority or national guidance on how licensed premises should act”.*

The draft policy gives a guide to applicants on what to consider when drafting their operating schedule and follows up with several control measures to consider. The draft policy also details that duplication with other regulatory regimes should be avoided on the part of the applicant and of the Local Authority.

- 3.2 *“With regard to 'Contact Details of Responsible Authorities', for the purpose of the accurate longevity of the policy, I would avoid the use of peoples names in what are potentially transient positions. You have done this in all but one of the authorities, that being 'Director of Public Health' where correspondence could be addressed to the ' Licensing Officer' rather than 'Melissa Rawlinson'. If the authority does not have a generic email address then do not provide one (not all of the other authorities have an email address)”.*

This is an accurate comment and where possible the stance to add positions and generic emails are taken. In this instance, however, Responsible Authorities are asked to provide the contact details that are to be used concerning Licensing Act 2003 applications and in Braintree District Council's published list of Responsible Authorities and those details in the draft are those which were provided.

- 3.3 It has been suggested that the public consultation also could include a list of changes from the previous policy review. In future reviews of policy, a briefing document may be produced for the public consultation highlighting significant changes to the previous policy.

4. Recommended amendments

- 4.1 The team name and email address for the responsible authority for public nuisance be updated to Environmental Health (Public Health & Housing) and phandh@braintree.gov.uk
- 4.2 Once the draft policy has been approved a forward from the Chairman of the Licensing Committee will be added and final formatting will take place.

5. Equality Impact Assessment

- 5.1 Under the Authorities obligations under the Equalities Act 2010, a draft Equality Impact Assessment has been completed concerning this Policy to determine the possible implications on equality.
- 5.2 The draft assessment has determined that the Policy intends to treat everyone equally.

- 5.3 Should the results of the consultation highlight that the draft Equality Impact Assessment does not treat everyone equally; the assessment will be reviewed and amended accordingly.

1. Introduction

APPENDIX 1

- 1.1 This Statement of Licensing Policy sets out the principles by which Braintree District Council intends to discharge its functions as the Licensing Authority under the Licensing Act 2003 (referred to in this document as 'the Act').
- 1.2 The Licensing Authority is responsible for the consideration of applications for the grant of premises licences, club premises certificates, personal licences and processing temporary event notices in respect of the sale and/or supply of alcohol and the provision of regulated entertainment and late-night refreshment. References in the text to licensed premises should be taken to include club premises unless the context otherwise requires.
- 1.3 The planning and licensing regimes involve consideration of different (albeit related) matters. The Licensing Committee is not bound by the decisions made by a Planning Committee and vice versa.
- 1.4 There is no legal basis for a Licensing Authority to refuse a licence because the relevant premises does not have planning permission or where there are conditions on the planning permission of a premise.
- 1.5 The Licensing Authority liaises with the Planning Authority to ensure they are aware of all new and varied premises licence and club premises certificate applications. This is achieved via an email sent at the start of the 28 day consultation period. This procedure is in addition to the statutory requirement for a copy of the application to the Planning Authority.
- 1.6 There are circumstances when a condition of planning permission, a terminal hour has been set for the use of the premises for commercial purposes. Where these hours are different from the licensing hours granted, the earlier closing time must be observed. Premises operating in breach of their planning permission would be liable to enforcement action from the planning department even in circumstances where the licensing permission allowed a later terminal hour.

2. Description of the District

- 2.1 Covering approximately 612 square kilometres, the Braintree district is the second-largest Essex local authority in terms of geographical area (Uttlesford is the largest). Whilst large in area the district is only the fifth most populated of the 12 Essex local authorities. The district consists of the two large market towns of Braintree and Halstead along with the 1970's urban 'expanded town' of Witham interconnected with many smaller villages and rural areas. Crossing the southern portion of the district are the two main arterial roads of Essex, the A12 and the A120 which provide the area with quick access to the rest of the county, London and Stansted airport.
- 2.2 A further description of the District can be found in Appendix 1. A map of the area is attached to this policy document at Appendix 2.

3. Statement of Licensing Policy

- 3.1 The Licensing Authority is required by the Act to publish a Statement of Licensing Policy which contains the principles it proposes to apply when exercising its functions under the Act.
- 3.2 This policy must be reviewed and published every 5 years. The Policy must also be reviewed from 'time to time' and any proposed amendments and/or additions must be subject to fresh consultation. The new policy must then be published.
- 3.3 This Policy takes effect on 7th January 2021 and replaces the Policy previously in force.

4. Consultation

- 4.1 In producing this policy, the Licensing Authority carried out an extensive consultation program between 29th April 2020 and 21st July 2020.
- 4.2 The Act requires that the following parties are consulted by the Licensing Authority:-
 - a) the chief officer of police for the licensing authority's area,
 - b) the fire authority for that area,
 - c) the director of public health for the licensing authority's area,
 - d) such persons as the Licensing Authority considers to be representative of holders of premises licences issued by that authority,
 - e) such persons as the Licensing Authority considers to be representative of holders of club premises certificates issued by that authority,
 - f) such persons as the Licensing Authority considers to be representative of holders of personal licences issued by that authority, and
 - g) such other persons as the licensing authority considers to be representative of businesses and residents in its area.

5 Approval of Policy

- 5.1 This policy was approved at a meeting of the Full Council on 5th October 2020 and was published via its website simultaneously. Copies are available on request.

6. Exchange of Information

- 6.1 The Licensing Authority is under a duty to protect the public funds it administers, and to this end may use, for the prevention and detection of fraud, the information provided by applicants. It may also share this information for these purposes with other bodies responsible for auditing or administering public funds.
- 6.2 In accordance with the provisions of the Crime and Disorder Act 1998, the Licensing Authority may exchange information provided by applicants with law enforcement agencies for purposes connected with the prevention and detection of crime.
- 6.3 When undertaking any data sharing exercise, regard shall be had to the relevant provisions contained in data protection laws, including under the General Data Protection Regulations.

7. Public Register

- 7.1 The Licensing Authority keeps a public register which may be inspected at the offices of the Licensing Authority on Mondays to Fridays (except bank and public holidays) between 10 am and 4.00 pm. Regulations prescribe what information should be kept in the register.
- 7.2 The Licensing Authority publishes details of applications on the Councils website www.braintree.gov.uk/licensing
- 7.3 A summary of all premises licences issued within the district can be accessed online via Public Access.

Public Access allows you to:

- view details of all applications received by the Licensing Section
- find an individual application if you know the application number
- search against the property to see what applications have been received

Except in certain cases where the legislation prohibits the public disclosure of information, you may view all applications for licences received by the Council.

8. Compliance and Enforcement

- 8.1 In exercising its functions with regard to the inspection of premises and to the institution of criminal proceedings for offences committed under the Act, or the calling of a licence review, the Licensing Authority will follow best practice. This requires that actions should be:-

- ☐ Proportionate - intervention will only take place when necessary. Remedies shall be appropriate to the risk posed and costs identified and minimised.
- ☐ Accountability - the Licensing Authority shall ensure it is able to justify its decisions and be subject to public scrutiny.
- ☐ Consistent - rules and standards shall be joined up and implemented fairly.
- ☐ Transparent - enforcement shall be open and regulations kept simple and user-friendly.
- ☐ Targeted - enforcement shall be focused on the problems and minimise side effects.

- 8.2 The Licensing Authority will endeavour to avoid duplication with other regulatory regimes, so far as is possible, and will adopt a risk-based inspection programme.
- 8.3 The main enforcement and compliance role of the Licensing Authority is to ensure compliance with the licences and permissions it authorises. Where appropriate, the authority may conduct joint inspections of licensed premises or premises which may need a licence, in conjunction with other enforcing authorities.
- 8.4 Where appropriate complaints will be investigated in accordance with the stepped approach outlined in the Statement of Enforcement Policy.
- 8.5 The Licensing Authority will keep itself informed of developments as regards the work of the Better Regulation Executive in its consideration of the regulatory functions of Local Authorities.
- 8.6 The Licensing Authority's enforcement/compliance protocols are available on request, as are details of the risk-based approach to inspections.

9. Introduction to the Act

- 9.1 In exercising its functions under the Act, the Licensing Authority must have regard to and promote the four licensing objectives namely:-
- ☐ The prevention of crime and disorder
 - ☐ Public safety
 - ☐ The prevention of public nuisance
 - ☐ The protection of children from harm
- 9.2 Applicants are advised to consider providing evidence that suitable and sufficient control measures, as detailed in their operating schedule, will be implemented and maintained relevant to the nature and mode of operation of their premises and events.

- 9.3 The Licensing Authority has certain expectations in respect of applicants and the operating schedules they produce. It is for applicants to decide on the extent of measures to be set out in their operating schedules but when assessing applications the Licensing Authority must be satisfied that the measures proposed aim to achieve the licensing objectives, as far as is possible.
- 9.4 Duplication with other regulatory regimes should be avoided. In particular, applicants should have regard to the fact that the Local Authority's licensing function will be discharged separately from its functions as the local planning authority. Normally, applications for premises licences for permanent commercial premises should be from businesses with planning consent for the property concerned.
- 9.5 This policy covers a wide variety of premises and activities and for this reason, it cannot detail all the factors which influence the achievement of the licensing objectives, nor can it detail all the control measures which may be appropriate.
- 9.6 Where valid representations are made the Licensing Authority will make objective judgments as to whether conditions need to be attached to a licence, certificate or permission in order to secure the achievement of the licensing objectives. Any such condition will focus primarily on the direct impact of the activities taking place on the premises on those attending the premises and members of the public living, working or otherwise engaged in normal activity in the area concerned and will cover matters within the direct control of individual licensees.
- 9.7 Licensing law is not the primary mechanism for the general control of individuals once they are away from licensed premises and therefore beyond the direct control of individual licensees or certificate holders. However, reasonable steps should be taken to prevent the occurrence of crime and disorder and public nuisance immediately outside the premises; for example, on the pavement, or in a smoking area.

Other mechanisms may be utilised to tackle unruly or unlawful behaviour of patrons when beyond the vicinity of the premises. These include:-

- ☐ measures to create a safe and clean town centre environment in partnership with local businesses, transport operators and departments of the local authority.
- ☐ the provision of CCTV surveillance in town centres, ample taxi ranks, provision of public conveniences late at night, street cleaning and litter patrols.
- ☐ powers to designate parts of the local authority area as places where alcohol may not be consumed publicly.
- ☐ police enforcement of the general law concerning disorder and anti-social behaviour.

- ☐ the confiscation of alcohol from adults and children in designated areas.
 - ☐ police powers to close down licensed premises for a specific period of time.
 - ☐ the power of the police or interested parties to seek a review of the licence.
 - ☐ other local initiatives which similarly address such problems.
- 9.8 The Licensing Authority recognises the cultural, social and business importance that premises and events requiring a licence can provide and the diversity of activities which are provided by licence holders. A proper account will be taken of the need to encourage a broad range of entertainments.
- 9.9 The Licensing Authority is under a legal obligation to have due regard (section 149, Equality Act 2010) to the need to eliminate unlawful discrimination, harassment and victimisation; to advance equality of opportunity and to foster good relations between persons with different protected characteristics.
- Those protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation
- 9.10 The impact of this policy on the requirements of the Equality Act 2010 will be monitored through the impact assessments.
- 9.11 When considering applications the Licensing Authority will have regard to the Act and the licensing objectives, this policy, statutory guidance, and all supporting regulations.

10. Prevention of Crime and Disorder

- 10.1 The Licensing Authority is committed to further improving the quality of life for residents and visitors to the district by continuing to reduce crime and the fear of crime.
- 10.2 Section 17 of the Crime and Disorder Act 1998 imposes a duty on the Local Authority when carrying out its various functions to do all it reasonably can to prevent crime and disorder in its area.
- 10.3 When addressing the issue of crime and disorder the applicant is advised to demonstrate, in the operating schedule, that those factors which impact on crime and disorder have been considered. These may include:-
- ☐ Underage drinking
 - ☐ Drunkenness on-premises and elsewhere
 - ☐ Drugs misuse
 - ☐ Violent behaviour
 - ☐ Anti-social behaviour
 - ☐ Control of their patrons while on the premises and as they arrive and depart

- ☐ Crime statistics in the locale
 - ☐ The nature of the local area
- 10.4 The Licensing Authority expects licensed premises to develop a staff policy and training programme on drug awareness, recognising signs of drunkenness and vulnerability, for example, offering drinking water and advice on refusing customers who appear drunk and discourage company policies that promote bonuses and sales incentives for selling alcohol. The Licensing Authority will expect necessary precautionary processes to restrict drunkenness, e.g. Home Office Licensing Guidance states drinks promotions should not be designed to encourage individuals to drink excessively or rapidly.
- 10.5 Where licensed premises are suspected of causing nuisance or being associated with the disorder or unreasonable disturbance, the review process may be invoked, and powers of revocation or the imposition of conditions may be considered. Conditions may include use of closed-circuit television, licensed door supervisors and earlier closing times. The Committee may consider a suspension of the licence to allow time for new conditions to be enacted.
- 10.6 It is expected that the Designated Premises Supervisor (DPS) should be able to demonstrate that they have the day to day control of the premises. When not on the premises it will be essential that the DPS is contactable, particularly should problems arise with the premises and that staff are authorised by the DPS.
- 10.7 The location of violent attacks, anti-social behaviour and hate crime or related incidents may be used to justify closing times.

11. Public Safety

- 11.1 The Licensing Authority is committed to ensuring that the safety of any person visiting or working in licensed premises is not compromised. Applicants are advised to consider how they can demonstrate in the operating schedule that suitable and sufficient measures have been identified and will be implemented and maintained to ensure public safety.
- 11.2 Factors which may have an impact on public safety may include:
- ☐ the number of people frequenting the premises
 - ☐ the condition, layout and design of the premises
 - ☐ the nature of the activities to be provided
 - ☐ customer profile
 - ☐ the use of special effects such as lasers, pyrotechnics, foam machines and so on.

11.3 The following examples of control measures are given to assist applicants and are considered to be amongst the most important to be taken into account in an operating schedule. However, it is recognised that this policy applies to a wide range of premises and activities and not all the measures will necessarily be relevant to a particular application.

- ☐ Suitable and sufficient risk assessments.
- ☐ Effective and responsible management of the premises.
- ☐ Provision of a sufficient number of people employed or engaged to secure the safety of all those present.
- ☐ Appropriate instruction, training and supervision of those employed or engaged to secure the safety of all those present.
- ☐ The keeping of appropriate written training records.
- ☐ Adoption of best practice guidance.
- ☐ Provision of effective CCTV in and around the premises.
- ☐ Provision of drinking vessels made from appropriate toughened material.
- ☐ The assessment of the use of polycarbonate drinking vessels over toughened ones on certain occasions.
- ☐ Implementation of crowd management measures.
- ☐ Proper arrangements to enable the personal licence holder to monitor the activity they have authorised.
- ☐ The condition, design and layout of the premises, including the means of escape in an emergency.

12. Prevention of Public Nuisance

12.1 Licensed premises have a significant potential to impact adversely on communities through public nuisance which can arise through their operation. The Licensing Authority wishes to maintain and protect the amenity of residents and businesses from the potential consequence of the operation of licensed premises.

12.2 The Licensing Authority interprets 'public nuisance' in its widest sense, and takes it to include such issues as noise and disturbance, light, odour, litter and anti-social behaviour.

12.3 Applicants are advised to consider how they can demonstrate in the operating schedule that suitable and sufficient measures have been identified and will be implemented and maintained to prevent public nuisance.

12.4 Factors which may have an impact on public nuisance may include:-

- ☐ the location of the premises (including open areas associated with them) and proximity to residential and other noise-sensitive premises.
- ☐ the customer profile.
- ☐ the hours of operation, particularly between 23.00 and 07.00 hours.
- ☐ the nature of activities provided.
- ☐ the design and layout of the premises and in particular the use of noise limiting features.
- ☐ the number of people frequenting the premises.
- ☐ the availability of public transport and the availability and location of car parks utilised by patrons.
- ☐ any 'wind-down period' between the end of the licensable activities and closure of the premises.
- ☐ the time of the last admission.
- ☐ the use of special effects such as lasers, pyrotechnics, and so on.

12.5 The following examples of control measures are given to assist applicants and are considered to be amongst the most important to be taken into account in an operating schedule. However, it is recognised that this policy applies to a wide range of premises and activities and not all the measures will necessarily be relevant to a particular application.

- ☐ Effective and responsible management and supervisory control of premises and associated open areas, including smoking areas.
- ☐ Appropriate instructions, training and supervision of staff.
- ☐ The keeping of appropriate written training records.
- ☐ Control of operating hours for all, or parts of, the premises, including such matters as deliveries and the operation of machinery.
- ☐ Adoption of best practice guidance.
- ☐ Installation of acoustic insulation, suitably controlled, sited and silenced ventilation or air conditioning systems and (where appropriate) sound limitation devices.
- ☐ Signage displayed at premises requesting that patrons leave quietly
- ☐ Management of people (including staff) and traffic (and resulting queues) arriving at and leaving the premises.
- ☐ Liaison with transport providers.
- ☐ Siting of external lighting, including security lighting.
- ☐ Management arrangements for the collection and disposal of litter.

- ☐ Proper arrangements to enable the personal licence holder to monitor the activity they have authorised.

13. Protection of Children from Harm

- 13.1 Family-friendly premises are to be encouraged but the risk of harm to children remains a paramount consideration when applications are determined.
- 13.2 The protection of children from harm includes their protection from moral, psychological and physical harm.
- 13.3 In relation to the exhibition of films, or transmission of programmes or videos, this includes protection from exposure to strong language, sexual expletives and violence. The Licensing Authority will expect licensees to implement measures which restrict children from viewing age-restricted films classified according to the recommendations of the British Board of Film Classification.
- 13.4 In certain circumstances, children are more vulnerable and their needs will require special consideration. This vulnerability includes their susceptibility to suggestion, peer group influence, inappropriate example, the unpredictability of their actions due to their age, and the lack of understanding of danger.
- 13.5 Applicants are advised to consider how they can demonstrate in the operating schedule that suitable and sufficient measures have been identified and will be implemented and maintained to safeguard children from harm.
- 13.6 Factors which may have an impact on the safety of children and give particular cause for concern may include:
 - ☐ where entertainment or services of an adult or sexual nature are commonly provided.
 - ☐ where there have been convictions of members of the current staff at the premises for serving alcohol to minors, or premises with a reputation for underage drinking.
 - ☐ Proxy sales of alcohol to minors (i.e. adults purchasing for persons who are underage).
 - ☐ The premises have a known association with illegal drug-taking or dealing.
- 13.7 The following examples of control measures are given to assist applicants and are considered to be amongst the most important to be taken into account in an operating schedule. However, it is recognised that this policy applies to a wide range of premises and activities and not all the measures will necessarily be relevant to a particular application.
 - ☐ Effective and responsible management and supervisory control of premises and associated open areas, including smoking areas;
 - ☐ Appropriate instruction, training and supervision of staff;

- ☐ The keeping of appropriate written training records;
 - ☐ Adoption of best practice guidance;
 - ☐ Complete exclusion of children, limitations on the hours when children may be present, restrictions from being in certain parts of the premises, or exclusion from certain activities;
 - ☐ The imposition of requirements for children to be accompanied by an adult;
 - ☐ Acceptance of 'proof of age' documentation, from time to time recognised by the Licensing Authority;
 - ☐ Measures to ensure children do not purchase, acquire or consume alcohol;
 - ☐ Proper arrangement to be made to enable the personal licence holder to monitor the activity they have authorised.
- 13.8 Conditions which require the admittance of children to any premises cannot be attached to licences or certificates.
- 13.9 Where premises provide gaming facilities licenced or permitted under the Gambling Act 2005, the Licensing Authority will expect measures to be in place to prevent children from accessing gaming machines. This should include the appropriate training of staff and the keeping of training records, as well as measures to ensure machines are appropriately monitored by staff. Such measures should be highlighted in the operating schedule.

14. Advice and Guidance

- 14.1 Pre-application discussions with the responsible authorities are encouraged to assist applicants in developing their proposals and operating schedules. Officers of the Licensing Authority will endeavour to provide guidance at that stage of the process. Where an officer is representing the Licensing Authority in its role as a Responsible Authority, wherever possible another officer will be designated to process the application and provide applicant guidance.
- 14.2 Where appropriate to do so, officers of the Licensing Authority will assist applicants to work with others who may make representations with a view to resolve areas of concern. Once an application has been lodged there are statutory timescales imposed on the application and determination process which restrict the opportunity for such discussions, liaison and mediation.
- 14.3 The Licensing Authority is obliged by the Act to grant an application unless relevant representations are received. If there are no relevant representations the application will be dealt with by the Licensing Authority's licensing officers under the scheme of delegation. If there are relevant representations the application will be considered by the Licensing Sub-Committee at a hearing which will, in most circumstances, be at a meeting held in public.

- 14.4 Mandatory Conditions are imposed by the Act whether or not the application is opposed.
- 14.5 In determining applications for garages, (i.e. forecourt shops) the Licensing Authority must decide whether or not premises are primarily used as a garage and will expect applicants to submit data which establishes the primary use. Where such information is not available (because for example, the premises have only just started trading), we may consider imposing a condition requiring this information to be provided to the Licensing Authority on a regular basis for the following years to ensure the premises are not primarily a garage.

15. Representations

- 15.1 These may be made by either of the following:
1. Responsible Authorities – A full list of the Responsible Authorities are given in Appendix 3.
 2. Any other person - Regardless of their geographical location, providing that the representation is not vexatious and frivolous in the opinion of the Licensing Authority.
- 15.2 Any representations must relate to the named premises and are restricted to the four licensing objectives. The Licensing Authority will need to be satisfied there is an evidential link between the representations made, the licensing objectives and the premises in question. Where a representation simply relists the licensing objections without stating why it is considered the grant of the application will undermine or fail to promote them, it may be rejected as invalid.
- 15.3 The Licensing Act 2003 (hearings) Regulations 2005 require the Licensing Authority to provide the applicant with copies of any relevant representations made. Any person making a representation to an application should bear in mind that their personal data (such as name and address) will be disclosed to the applicant. The Licensing Authority will not edit letters of representation before it sends it out, with the exception of telephone numbers, e-mail addresses and signatures. All letters of representation will be contained in the agenda should the matter proceed to a sub-committee hearing. Such hearings are open to the public and may include the presence of members of the media. Furthermore, personal data may be published in the minutes which are distributed to all parties to the proceedings and available on the Council's website subject to the exemptions set out in Part 1 of Schedule 12A of the Local Government Act 1972 (as amended).
- 15.4 In exceptional circumstances, persons making representations to the licensing authority may be reluctant to do so because of fears of intimidation or violence if their personal details, such as name and address, are divulged to the applicant.

- 15.5 If it is considered that the person has a genuine and well-founded fear of intimidation and may be deterred from making a representation on this basis, the Licensing Authority may consider alternative approaches such as withholding details or using a general location.

16. Licensing Committee

- 16.1 The Committee is currently composed of 14 Councillors but can include up to 15. A contested application will be heard by a sub-committee comprising three members of the Licensing Committee or a quorum as required by the Council's constitution.
- 16.2 When considering applications the sub-committee will have regard to this Policy, statutory guidance, the Act and attached regulations and the licensing objectives.
- 16.3 Each application is considered on its individual merits.
- 16.4 Should the sub-committee decide to approve the application the mandatory licence conditions must be applied. In addition, the sub-committee will determine whether it is appropriate to attach other conditions to a licence, certificate or permission to secure the achievement of the licensing objectives. Any such conditions will primarily focus on the direct impact of the activities taking place at the premises on those attending the premises and members of the public living, working or otherwise engaged in normal activity in the vicinity of the premises.
- 16.5 In determining whether a person lives or has business interests sufficiently close to the premises so as to be likely to be affected by the proposed activities, the Licensing Authority will consider factors such as:
- The size of the premises;
 - The nature of the premises;
 - The distance of the premises from the location of the residence or business of the person making the representations;
- The potential impact of the premises (e.g. the number of customers and routes likely to be taken by its customers).
- 16.6 Conditions which seek to control the range or nature of activities within the premises, or which are designed to reduce the potential for anti-social behaviour, may be necessary. Such conditions may also seek to directly impact upon the behaviour of customers on, or within the immediate vicinity of, the premises.
- 16.7 The Licensing Authority will avoid attaching conditions which duplicate other regulatory regimes wherever possible.
- 16.8 A list of which matters will be dealt with at committee and those which are delegated to licensing officers can be found at Appendix 4.

17. Appeals

- 17.1 An appeal may be made to the Magistrates' Court against a decision of the Licensing Authority. The appeal must be made within 21 days of being notified of the decision to be appealed against.
- 17.2 The following may appeal:-
- The applicant;
 - A Responsible Authority or any person who made relevant representations;
 - In the case of a review, the holder of the licence or certificate being reviewed.

18. Reviews

- 18.1 A responsible authority or any person may ask the Licensing Authority to review a premises licence because of a matter arising at the premises in connection with any of the 4 licensing objectives.
- 18.2 The Licensing Authority will not normally engage its role as a Responsible Authority by calling reviews on behalf of other persons, such as local residents or community groups. These individuals and groups are entitled to do so in their own right where there are sufficient grounds.
- 18.3 Where Responsible Authorities have concerns about problems identified at premises, the Licensing Authority considers it to be good practice for them to give licence holders' early warning of their concerns and the need for improvement. Where possible and/or appropriate it would be expected that advice and guidance in addressing the issue(s) should be given.
- 18.4 The Licensing Authority draws the attention of Responsible Authorities to the Home office publication, "The Practical Guide for Preventing And Dealing with Alcohol-Related Problems - What You Need To Know".

Summary Reviews (Violent Crime Reduction Act 2006)

- 18.5 Where premises are associated with serious crime or serious disorder a senior police officer (Superintendent or above) may apply for a summary review of a premises licence.
- 18.6 If a summary review is applied for, the Licensing Authority must consider the application within 48 hours (time that is not on a working day is disregarded) and determine what interim steps to take, if any, of those listed below:
- ☐ the modification of the conditions of the premises licence;
 - ☐ the exclusion of the sale of alcohol by retail from the scope of the licence;

- ☐ the removal of the designated premises supervisor from the licence;
 - ☐ the suspension of the licence.
- 18.7 Although the law allows the decision to be determined in the absence of the premises licence holder, the Licensing Authority will endeavour to always notify the licence holder of the application having been made and of the time, date and place that it will be determined, in order to afford the licence holder or representative the opportunity to attend.
- 18.8 Where the Licensing Authority decides to take any of the interim steps, its decision has immediate effect and immediate notice of the decision must be given to the licence holder.
- 18.9 Where the licence holder makes representation in respect of the decision, the Licensing Authority must hold a hearing within 48 hours (time that is not on a working day is disregarded) of receipt of the representations and, unless they are withdrawn, consider those representations and any made by the police; consider whether the interim steps are necessary for the promotion of the licensing objectives; determine whether to withdraw or modify the steps taken.
- 18.10 The Licensing Authority must also hold a full review hearing within 28 days.

Closure of Premises

- 18.11 Under the Anti-Social Behaviour, Crime and Policing Act 2014, Closure Notices can be issued by the police or local authority for 24 hours (and up to 72 hours where necessary) when satisfied there are reasonable grounds:
- ☐ that the use of particular premises has resulted or is likely soon to result in nuisance to members of the public; or
 - ☐ that there has been or is likely soon to be disorder near those premises associated with the use of those premises.
- 18.12 Closure Orders up to a period of three months can be sought from a Magistrates Court by police and local authorities once a Closure Notice has been issued. The court may make a Closure Order if it is satisfied:
- ☐ that a person has engaged, or is likely to engage, in disorderly, offensive or criminal behaviour on the premises; or
 - ☐ that the use of the premises has resulted, or is likely to result, in serious nuisance to members of the public; or
 - ☐ that there has been, or is likely to be, disorder near those premises associated with the use of the premises;
 - ☐ and that the order is necessary to prevent the behaviour, nuisance or disorder from continuing, recurring or occurring.

18.13 Breach of a notice or order is a criminal offence and carries the following sentences upon summary conviction

- ☐ Notice: Up to three months in prison.
- ☐ Order: Up to six months in prison.
- ☐ Both: Up to an unlimited fine for residential and non-residential premises.

18.14 Who Can Appeal?

- ☐ Any person who the closure notice was served on.
- ☐ Any person who had not been served the closure notice but has an interest in the premises.
- ☐ The Council (where closure order was not made and they issued the notice).
- ☐ The police (where closure order was not made and they issued the notice).

19. Suspension of Licences

19.1 The Licensing Authority is under a duty to suspend Premises Licences and Club Premises Certificates where the Licensee has failed to pay the annual fee within a prescribed period. Licences which are suspended shall cease to have an effect during the suspension period. Furthermore, a licence cannot be transferred during the said period.

20. Electronic Applications

20.1 In keeping with the Council's policy on the introduction of e-Government, the Licensing Authority consents to applications and other notices being given electronically where the Act and regulations allow.

Outline of Local Authority Area

Appendix 1

The Braintree District covers 236 square miles of north Essex and is the second-largest district, in area, in Essex. Largely rural in character, it stretches from the Stour Valley/Suffolk Border in the north to the Chelmer Valley and Chelmsford in the south. Just over half the total population of 149,108 (2013 Mid-Year Population Estimate from Office of National Statistics) live in the three main towns of Braintree, Halstead and Witham and the remainder in the villages, which make up the 54 parishes.

The administrative centre is Braintree, a market town on the A131 and A120, the main east coast route linking Braintree with the M11 and Stansted Airport, which lie just to the west of the District. The A120 has in part been upgraded to improve access to Stansted Airport and the M11.

Braintree Village constructed on the outskirts of East Braintree provides a major shopping and leisure facility. The centre features expansive retail shopping, a 12 screen multiplex cinema, bowling alley, several restaurants and swimming pool complex.

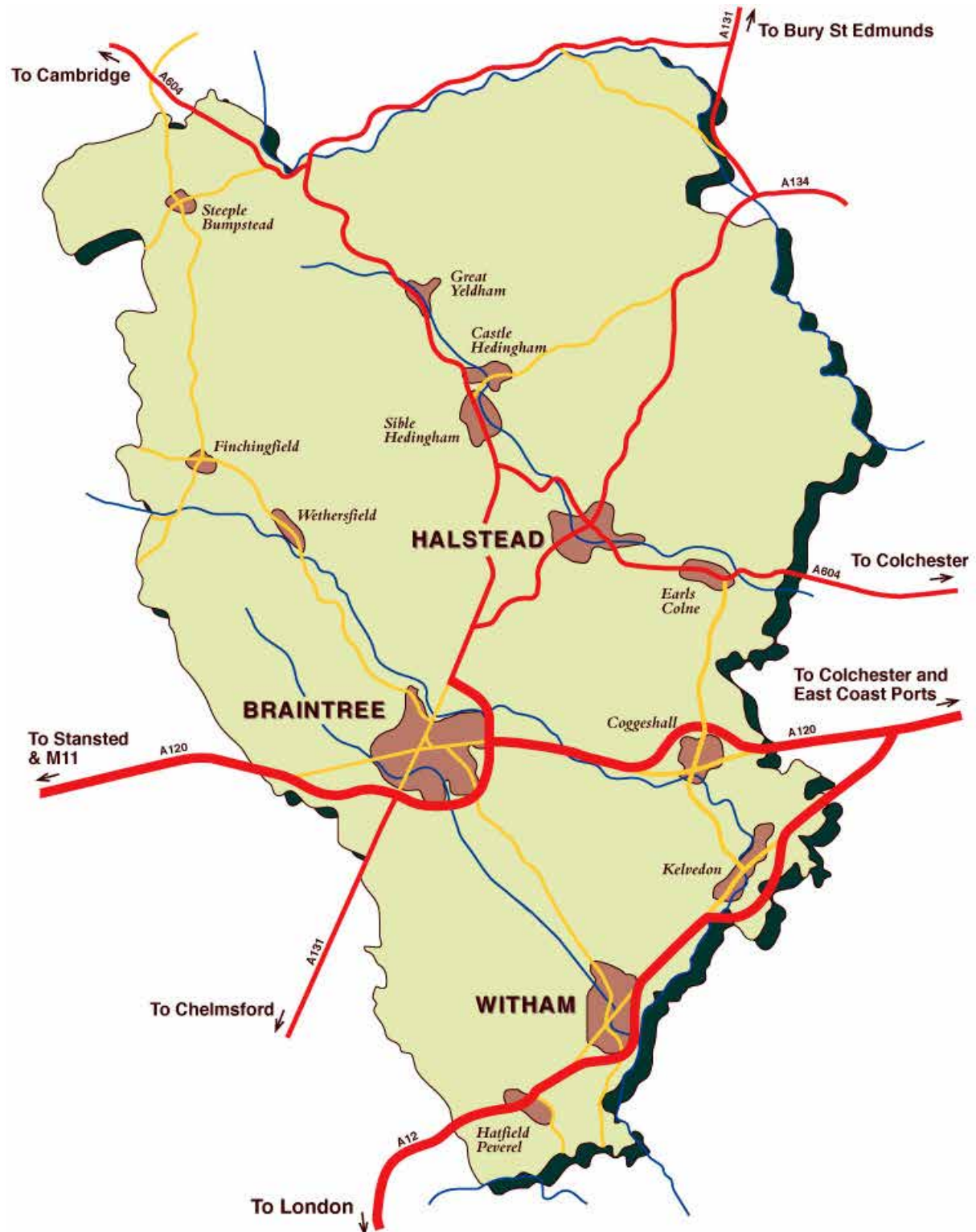
Witham is the second largest town and is located in the south of the District on the mainline from Liverpool Street to East Anglia. It provides a diverse landscape with its historic High Street, attractive outlying villages, a major trunk road and significant new development. A key feature is the new Maltings Lane development of 850 dwellings comprising residential areas, a business park, a primary school, neighbourhood centre and community facilities.

Halstead is a small, historic country market town serving the northern half of the District. Situated in a conservation area along the Colne Valley, the town supports residential area, thriving High Street shopping, restored Public Gardens, its own Theatre/Cinema and a swimming pool complex. It has a developing café culture and several evening entertainment establishments and traditional public house/inns. The town has potential for future small residential and commercial developments.

The District has a wide diversity of cultural backgrounds and interests with thriving village and urban communities affording many facilities for leisure and entertainment for both residents and visitors.

MAP OF BRAINTREE DISTRICT

Appendix 2



Contact Details of Responsible Authorities

1. Licensing Authority

Environmental Health Manager (Food,
Health & Safety and Licensing)

Braintree District Council
Causeway House
Bocking End
Braintree
Essex CM7 9HB

Tel: 01376 557790
E-mail: licensing@braintree.gov.uk
2. Police

Licensing Section
Essex Police
Police Station
Blyths Meadow
Braintree
Essex CM7 3DJ

Tel: 01376 551312
E-mail: licensing.applications@essex.police.uk
3. Fire Brigade

The Community Commander
Essex County Fire and Rescue Service
Braintree and Uttlesford
Fire Station
Braintree
Essex, CM7 3JD
Tel: 01376 345537
E-mail: northwestgroupsdp@essex-fire.gov.uk

4. The Body Responsible
For the Protection of
Children from Harm
- Head of Child Protection
(Licensing Applications)
Essex County Council
PO Box 297
Chelmsford
Essex, CM1 1YS
- Tel: 01245 341932
E-mail: licenceapplications@essexcc.gov.uk
5. Environmental Health
- Environmental Health (Public Health &
Housing)
Braintree District Council
Causeway House
Bocking End
Braintree
Essex CM7 9HB
- Tel: 01376 551414 ext 2223
E-mail: phandh@braintree.gov.uk
6. Environmental Health
- Environmental Health (Health & Safety)
Braintree District Council
Causeway House
Bocking End
Braintree
Essex CM7 9HB
- Tel: 01376 551414 ext 2221
E-mail: healthprotection@braintree.gov.uk
- 6a. Health/Safety Executive
- Operations Manager
Health and Safety Executive
Wren House, Hedgerows Business Park
Colchester Road
Springfield, Chelmsford
Essex CM2 5PF
- Tel: 01245 706200
Web: www.hse.gov.uk

7. Planning Authority
- Development Services Manager
Development Services
Braintree District Council
Causeway House
Bocking End
Braintree Essex CM7 9HB
- Tel: 01376 552525
- E-mail:
planning.enforcement@braintree.gov.uk
8. Trading Standards
- Essex Trading Standards
Essex County Council
CG32, County Hall
Market Road
Chelmsford CM1 1QH
- Tel: 0845 6037626
- Email:
BSTTradingStandards@essex.gov.uk
9. Director of Public Health
- Licensing Officer
Public Health Team
E2 County Hall
Chelmsford
CM1 1LX
- Tel: 01245 431855
- E- mail: LicenceApplications@essex.gov.uk

Matter to be dealt with	Full Committee	Sub Committee	Officers
Application for personal licence		If a police objection	If no objection made
Application for personal licence with unspent convictions		All cases	
Application for premises licence/Club Premises Certificate	If a relevant representation made regarding cumulative impact	If a relevant representation made	If no relevant representation made
Application for provisional statement	If a relevant representation made regarding cumulative impact	If a relevant representation made	If no relevant representation made
Application to vary premises licence/club premises certificate	If a relevant representation made regarding cumulative impact	If a relevant representation made	If no relevant representation made
Application to vary designated premises supervisor		If a police objection	All other cases
Request to be removed as designated premises supervisor			All cases
Application for transfer of premises licence		If a police objection	All other cases
Applications for interim Authorities		If a police objection	All other cases
Application to review		All cases	

Premises licence/club premises certificate			
Decision on whether a complaint is irrelevant frivolous vexatious etc.			All cases
Decision to object when local authority is a consultee and not the relevant authority considering the application		All cases	
Determination of an objection to a temporary event notice		All cases	
Determination of application to vary premises licence at community premises to include alternative licence condition			All cases
Decision whether to consult other responsible authorities on minor variation application			All cases
Determination of minor variation application			All cases

APPENDIX 2

From: Cllr Richard van Dulken
Sent: 20 June 2020 7:09 AM
To: Licensing <licensing@braintree.gov.uk>
Subject: Consultation on Review of Licensing Policy.

It strikes me that it would be useful, as part of this consultation, to have some indication of any substantial proposed changes to the 2016 version.

I note also that in the public safety section there is no specific mention of adherence to Local Authority or national guidance on how licensed premises should act.

Regards

Cllr Richard van Dulken
Braintree District Council - Yeldham Ward

APPENDIX 2

Hi John,

Thanks for the consultation. In very brief scanning of the document I notice that you have the wrong email address for my team. Can you rename it Environmental Health (Public Health & Housing) and email phandh@braintree.gov.uk

You may also want to review the contact details for others, esp Trading Stds as I am sure that they wouldn't be an 0845 number anymore.

There may be other comments to make when I forward this to my team and will let you know within the time frame if there is anything further. #

Regards
Colin

From: Meddings, John

Sent: 19 June 2020 12:16

To: Batchelor, Colin <colin.batchelor@braintree.gov.uk>

Subject: The Licensing Act 2003 – Review of the Braintree District Council's Licensing Policy Statement

Hi Colin

We are currently in a consultation for the Licensing Act Policy review.

https://www.braintree.gov.uk/info/200137/consultations/96/contribute_to_a_council_consultation

I have made some changes to the public nuisance section in line with the Essex Model which is used as a template for the majority of Essex authorities.

If you have any comments please let me know before the 21st July 2020.

Kind regards

John Meddings

Principal Licensing Officer

Braintree District Council | Causeway House, Bocking End, Braintree, CM7 9HB

(01376 552525 Ext. 2213 | www.braintree.gov.uk | *

john.meddings@braintree.gov.uk

APPENDIX 2

Having viewed the draft policy I have the following comments you may want to consider.

On the web page overview it would be helpful to highlight the changes with regard to the previous policy (if any!?).

In the appendices the 'Map of Braintree District' appears as both Appendix 2 and Appendix 3. Appendix 3 appears at the bottom of the page and I suspect it should be on the next page and relate to 'Contact Details of Responsible Authorities'

With regard to 'Contact Details of Responsible Authorities', for the purpose of the accurate longevity of the policy, I would avoid the use of peoples names in what are potentially transient positions. You have done this in all but one of the authorities, that being 'Director of Public Health' where correspondence could be addressed to the ' Licensing Officer' rather than 'Melissa Rawlinson'. If the authority does not have a generic email address then do not provide one (not all of the other authorities have an email address).

Regards

Dean Fierheller (P2216)
The Woolpack Inn
Witham
Essex
CM8 2JP

Conditionality check on tax registration (tax check) for renewed licence applications		Agenda No: 7
Portfolio	Environment and Place	
Corporate Outcome:	A sustainable environment and a great place to live, work and play A high performing organisation that delivers excellent and value for money services Delivering better outcomes for residents and businesses and reducing costs to taxpayers	
Report presented by:	John Meddings, Principal Licensing Officer	
Report prepared by:	Daniel Mellini, Environmental Health Manager (Food, Health & Safety and Licensing)	
Background Papers:		Public Report
1. Policy Paper New Tax checks on licence renewal applications		Key Decision: No
Executive Summary:		
<p>Legislation in the Finance Bill 2020-21 will introduce new measures requiring a tax check for applications to renew licences for:</p> <ul style="list-style-type: none"> • Hackney carriage and private hire drivers • Private hire operators • Scrap metal dealers • Scrap metal – mobile collectors <p>The measure will be implemented from April 2022 and is intended to make it more difficult for non-compliant traders to operate in the hidden economy.</p> <p>The Council will be required to signpost first-time applicants to HM Revenue and Customs (HMRC) guidance about their potential tax obligations and obtain confirmation the applicant is aware of the guidance before considering the application.</p> <p>Where the application is not a first-time application (a renewed application) the Council must, before considering the application, obtain confirmation from (HMRC) that the applicant has completed a tax check.</p> <p>An applicant will carry out a tax check by providing information to enable (HMRC) to satisfy itself that the applicant has complied with an obligation to notify their chargeability to tax, where such an obligation applied. The check will be completed when (HMRC) is satisfied the applicant has provided all information requested.</p>		

Recommended Decision:	
Members are requested to note the report for information.	
Purpose of Decision:	
Members are requested to consider the report for information at this stage and should the requirement become law as suggested, a further update will be provided.	
Any Corporate implications in relation to the following should be explained in detail.	
Financial:	There are no implications arising from this report.
Legal:	There are no implications arising from this report.
Safeguarding:	There are no implications arising from this report.
Equalities/Diversity:	There are no implications arising from this report.
Customer Impact:	Should the legislation be introduced there could be a delay for applicants waiting for a renewal application to be issued.
Environment and Climate Change:	There are no implications arising from this report.
Consultation/Community Engagement:	There are no implications arising from this report.
Risks:	There are no implications arising from this report.
Officer Contact:	
Designation:	Daniel Mellini
Ext. No:	2228
E-mail:	daniel.mellini@braintree.gov.uk

1. Background

- 1.1 The hidden economy tax gap which is the difference between the amount of tax that should, in theory, be collected by HM Revenue and Customs (HMRC), and what is actually collected is estimated to be in the region of 2.6 billion for 2018 to 2019.
- 1.2 The hidden economy consists of individuals and businesses with sources of taxable income that are entirely hidden from (HMRC).
- 1.3 Conditionality, if introduced, aims to address part of the hidden economy by helping applicants that apply for certain licences better understand their tax obligations.
- 1.4 Legislation is planned to be introduced by way of the Finance Bill 2020-21 which will come into force from 4th April 2022.
- 1.5 Conditionality will apply to applications made by individuals, companies and partnerships, including LLPs for licences to drive taxis and/or private hire vehicles (PHV), operate a (PHV) business, or deal in scrap metal.
- 1.6 The Council will be required to signpost first-time applicants to (HMRC) guidance about their potential tax obligations and obtain confirmation that the applicant is aware of the guidance before considering the application.
- 1.7 Where the application is not a first-time application (a renewed application) the Council must, before considering the application, obtain confirmation from (HMRC) that the applicant has completed a tax check.
- 1.8 An applicant will carry out a tax check by providing information to enable (HMRC) to satisfy itself that the applicant has complied with an obligation to notify their chargeability to tax, where such an obligation applied. The check will be completed when (HMRC) is satisfied the applicant has provided all information requested.
- 1.9 Where an (HMRC) failure prevents the licensing body from meeting its requirement to obtain confirmation of the completion of a tax check, that requirement will cease to apply. (HMRC) will also have discretion to waive the requirement where an (HMRC) failure prevented the applicant completing their tax check.
- 1.10 In cases where the licensing body has been unable to obtain confirmation of completion of the tax check for 28 days other than because of an (HMRC) failure (for example, where an applicant refuses to complete a tax check and therefore (HMRC) cannot provide confirmation that they have completed one) amendments to section 17 of the Transport Act 1985 and paragraph 1 of Schedule 1 to the Scrap Metal Dealers Act 2013 will cause the extended licence to expire.
- 1.11 (HMRC) has conducted two public consultations on using conditionality to tackle the hidden economy in 2016 and 2017-2018.

- 1.12 At this stage, it is not yet clear what the implications are to the Council should this legislation be introduced.
- 1.13 It is expected that the process of sign-posting new applicants to information regarding tax liability will be relatively straight forward.
- 1.14 Any blockages to the process are likely to occur at the renewal of the licence when the Council must be satisfied that an applicant has completed a tax check before a licence can be issued.
- 1.15 It is not possible to state whether the cost of a licence would increase as a result of the additional requirement, however this would be assessed at a suitable time frame after implementation. It is however envisaged that any increase in cost would be minimal.
- 1.16 Should the legislation be introduced, it is expected that guidance is to be provided to the Council so it can implement the changes correctly.

2. Next Steps

- 2.1 The Council will monitor whether the legislation is implemented and will amend its processes accordingly should this be the case.

LICENSING COMMITTEE UPDATE		Agenda No: 8
Portfolio	Environment and Place	
Corporate Outcome:	Delivering better outcomes for residents and businesses and reducing costs to taxpayers	
Report presented by:	John Meddings, Principal Licensing Officer	
Report prepared by:	John Meddings, Principal Licensing Officer	
Background Papers:	Public Report	
None	Key Decision: No	
Executive Summary:		
To update Members on applications determined and relevant new information.		
Recommended Decision:		
To note the information detailed.		
Purpose of Decision:		
To update Members.		
Any Corporate implications in relation to the following should be explained in detail.		
Financial:	None arising from this report	
Legal:	None arising from this report	
Safeguarding:	None arising from this report	
Equalities/Diversity:	None arising from this report	
Customer Impact:	None arising from this report	
Environment and Climate Change:	None arising from this report	
Consultation/Community Engagement:	None arising from this report	
Risks:	None arising from this report	
Officer Contact:	John Meddings	
Designation:	Principal Licensing Officer	
Ext. No:	2213	
E-mail:	john.meddings@braintree.gov.uk	

1. Background

- 1.1 Members have requested regular updates on applications determined by Licensing Sub-Committees and Drivers Panel. A summary of all applications determined since the Licensing Committee meeting of 26th February 2020 are highlighted below.
- 1.1 The report will also provide a more general update with regards the work of the Licensing Team and significant matters affecting the service.

2. Hackney Carriage & Private Hire Drivers Licences

- 2.1 On 4th June 2020 there was an immediate suspension of a licensed driver. The suspension was issued in consultation with the Chairman of the Licensing Committee and the Head of Governance and Legal Services. The licence has since expired.
- 2.2 There is an application for a driver's licence which is due to be heard at a meeting of the Drivers' Panel on 18th September 2020.

3. Licensing Act 2003

- 3.1 There have been two Licensing Act 2003 hearings since the last update.
- 3.2 An application for the Variation of a Premises Licence at Fox & Hounds, 3 Chapel Street, Steeple Bumpstead was granted by a Licensing Sub-Committee on 21st July 2020.
- 3.3 An application for a new Premises Licence at Rose's General Store, 13 Bridge Street, Bures Hamlet was granted by a Licensing Sub-Committee on 30th July 2020.

4. Covid-19

- 4.1 Officers from the Licensing Team have taken an active role in providing support and advice to licence holders during the Cov-19 pandemic and have helped ensure businesses were initially complying with business closure requirements and then requirements which would allow them to reopen safely from 4th July 2020.
- 4.2 It is estimated that Officers have undertaken at least 250 observations and visits of licensed premises since the end of March. In the month of July, Officers undertook joint patrols with Essex Police as part of the response to help re-open the hospitality sector.
- 4.3 Officers undertook a joint operation with Essex Police on 31st July 2020 with respect to taxis with a number of aims which were to provide high visibility policing in the District, in particular the town centres, to check licensed vehicles to ensure compliance with road traffic regulations and licence conditions, to check drivers to ensure compliance with driver licence conditions and to engage with the taxi trade. The operation was a success

and 14 vehicles were inspected which highlighted only a few minor issues that were dealt with by Licensing Officers.

- 4.4 Licensing Officers will continue to work with partner agencies such as the Police to ensure our communities are protected and it is likely that further licensing based joint working will take place between now and Christmas.

5 Taxi and Private Hire Vehicle Standards

- 5.1 The Department for Transport published the Statutory Taxi and Private Hire Vehicle Standards in July 2020. The document sets out a framework of policies that, under section 177(4) of the Policing and Crime Act 2017, licensing authorities “must have regard” to when exercising their functions. These functions include developing, implementing and reviewing their taxi and private hire vehicle licensing regimes.
- 5.2 A report will be submitted to the next Licensing Committee in November 2020 which will provide a number of recommendations in line with the document.